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CHARLES MASON.¹

SOLDIER — AUTHOR — LAWYER — PIONEER — JURIST.



THE management of the governments of the few remaining Territories of the United States to-day, is easily effected as compared with the same function when Iowa was a Territory fifty years ago. Precedents have been made, usages have been established, which then did not exist, and in case of difficulty or doubt [as measured by the time occupied in communicating with the supreme authority at Washington, except in the case of Alaska], the most distant Territory is but a moment from Washington, whereas Iowa was two or three weeks off, according as it was high or low water in our navigable rivers, winter or summer. It was therefore more necessary then than now that the officials intrusted with the conduct of the governments of the infant Territories should be men of unerring judgment and self-relying ability.

¹ In the preparation of this sketch of Judge Mason, the writer is indebted for kind assistance to Mrs. Remey, Mr. J. L. Waite, editor of the *Burlington Hawk-Eye* and to Mr. George H. Yewell and Hon. Geo. G. Wright.

Either from careful selection, providential accident, or the force created by necessity, we find that in the case of early Iowa, the men charged with the responsibility of her government, whether in the executive, legislative or judicial departments, responded to the calls of every crisis with elastic strength corresponding to the gravity of the occasion, as a steel spring rises still higher the more it is pressed. Of such a mold was Charles Mason, trained to military life at West Point, called to the bar in New York City, and appointed Chief Justice of the Territory of Iowa by President Van Buren.

The ancestry of Judge Mason on his father's side is traced back through the earliest New England colonial history to Capt. John Mason, a favorite and daring English naval commander, the founder of New Hampshire, and in 1617 the explorer of the New England coast, who, after the receipt of many honors and rewards from the sovereigns of England of that day, about 1635 died, and was buried in Westminster Abbey.

Charles Mason, the subject of our sketch, was born October 24th, 1804, in the town of Pompey, Onondago County, New York. After receiving such education as the schools of his native place afforded, in 1825, in his twenty-first year, he was sent to the National Military Academy at West Point, where in 1829 he was graduated first in his class. Among his fellow academicians who subsequently became distinguished, were Jefferson Davis, Robert E. Lee, the latter in the same class with Mason, and Leonidas Polk.¹

¹It is unnecessary to say that Davis and Lee became respectively the President and Generalissimo of the Confederate States, but it is not so generally known that Polk, previous to his graduation at West Point had been "converted" by the Chaplain, the Rev. Charles P. McIlvaine, afterwards Episcopal Bishop of Ohio, that, after passing through the orders of Deacon and Priest, he became the Episcopal Bishop of Louisiana, and that at the outbreak of the Civil War he exchanged the mitre for the sword, rising under Davis' *quasi* government to the rank of Lieutenant-General. He was killed by a shell

Upon the receipt of his commission in the army after his graduation, his first assignment to duty was as instructor at West Point. After two years so spent he resigned from the army and began the study of law in New York City, where he was admitted to the bar and began to practice law. Soon after his admission to the bar, he removed in 1832 to Newburg, New York, where he formed a law partnership with Judge Hasbruck, which lasted two years. He then returned to New York, and while there became a frequent contributor to the *Evening Post*, then edited by the distinguished poet, William Cullen Bryant, and during the absence of the editor in Europe and the illness of Mr. Leggett, the manager, was for some time the sole editor.

These employments—his tutorship at West Point from 1829 to 1831, his study of the law, which (the date not being accessible) we may assume was not long, as his necessary reading of history and international law at West Point must have greatly facilitated his preparation for the bar, and his law practice at Newburg and his editorial work for the New York *Evening Post*, bring his history down into the year 1836.

In the summer of this year (1836) he made his first visit to the West. Returning to New York he soon came back again and spent the winter of 1836-7 at Belmont, the temporary capital of the Territory of Wisconsin, whose boundaries then included what is now Iowa. In February, 1837, he

from a United States cannon passing through his chest at Pine Mountain, Georgia, in June, 1864, during the Atlanta campaign, thus relieving the House of Bishops of his church of the solution of a knotty problem which would have arisen had he lived another year and desired to exercise again his episcopal functions. The sincerity of his conduct has never been questioned. Just before his death he had received several copies of a small religious book, a couple of which he had given to army friends. It fell to Jefferson Davis in 1832, then a Lieutenant in the garrison of Rock Island, in obedience to superior orders, with sword and fire to ruthlessly evict the early settlers who had prematurely "squatted" upon what was afterwards to become Burlington, the pioneer home of his school friend Mason.

first visited Burlington, then a mere hamlet and little resembling the populous and opulent city of to-day which has taken its place, and which then had lately become the capital of Wisconsin, for Iowa, even as a Territory, was not yet upon the map. This journey from Belmont to Burlington, we believe he made on horseback, traversing, we may suppose, in the pride of military horsemanship learned at "the Point," the "military road," in the west then only a trail, which Congress was making across our wild domain, through "sloughs" and over "hog-backs."

He soon again visited the East, and August 1st, 1837, was married to Miss Angeline Gear, of Berkshire, Massachusetts, and in the following November with his wife came back to make his permanent home in Burlington, having been appointed United States Attorney, and one of Governor Dodge's aides.

Upon the organization of the Territory of Iowa in 1838, he was appointed by the President Chief Justice of the new Territory. The court consisted of three Judges, his associates on the bench being Joseph Williams and Thomas S. Wilson. He held the office of Chief Justice continuously from the organization of the Territory of Iowa until after her admission into the Union. His decisions as Judge, have often been referred to with pride by the several generations of Iowa attorneys which have succeeded each other since his day. One of them which attracted unusual attention at the time, and which was among the first made on this point, sustained the right to her freedom of a slave brought to Iowa by her master, Judge Mason holding that the slave having been voluntarily brought by her master into the free Territory of the United States could not be remanded into slavery.

Judge Mason's services to Iowa did not end with her Territorial days. We find his name constantly associated with honorable official position in her State government or with public enterprises connected with her welfare and progress down to the day of his death. He was appointed by Gover-

nor Hempstead Attorney for Iowa to bring suit against the State of Missouri in the United States Supreme Court to define the boundary line between the two States, which he prosecuted to a final determination, obtaining a decree in favor of Iowa. He was appointed, with Stephen B. Hempstead and William G. Woodward, a commission to revise and codify the Laws of Iowa, which resulted in the "Code of 1851."

In 1851, the County Commissioners system having been superceded by that of Judges, he was elected County Judge of Des Moines County, but resigned the office the following year.

In 1858, when the present State Constitution took effect and provided for a new system of public education, Judge Mason was appointed a member of the State Board of Education.

In April, 1853, he was appointed by President Pierce Commissioner of Patents, and held the office till August, 1857, when he resigned. The duties of this office required his almost constant presence in Washington, and a corresponding absence from home, and at the close of this public service engagements growing out of it compelled his still further absence from Iowa. In this way his individuality was in a measure lost to that new citizenship which flowed to our State in the movements of population to the West, the flood-tide of which was in 1854.

In 1859 he was engaged as the legal adviser of Munn & Co., the proprietors of the Scientific American, and in 1861 became the senior member of the firm of Mason, Fenwick & Lawrence, Patent Attorneys at Washington, D. C., in which latter capacity he continued actively interested until a short time before his death, although residing a large portion of each year in Iowa.

In 1861 he was nominated by the Democratic State Convention for Governor, but declined. In 1867 he was again nominated by the democrats as the very strongest candidate

they could produce, but was defeated. He acted as Chairman of the Democratic National Central Committee in 1864, and in 1868 and again in 1872 he was a delegate from Iowa to the Democratic National Conventions of those years.

For the last ten years of his life Judge Mason was much interested in public enterprises affecting the prosperity of his home city, Burlington. He was President of the Water Company, of the German American Savings Bank, of the Burlington Board of Trade, of the Burlington and Northwestern Railroad Company, and of the Burlington Street Railway Company, and Treasurer of the Burlington School Board. A mere reference to his official connection with these public trusts, and his almost invariably standing at the head of them, shows the high estimation in which he was held by his townsmen and neighbors, who placed him at the head as their leader.

Judge Mason was the author of various pamphlets, some of them on the subject of sewerage, drainage and sanitation, but more notably on financial subjects, of which he had made a profound study. His contributions to the New York *Evening Post* and his editorial connection with that paper in the earlier part of his career, show that he had a natural inclination for authorship. One of his pamphlets, "An Inquiry Relative to a Resumption of Specie Payments," published at Burlington in December, 1872, has a more than usual interest at this time in view of the wild excitement and confusion of judgment existing upon the subject of the relative values of the precious metals and the regulation of the national currency. We quote from the opening passages of the "prefatory" pages:

"Several years ago the author of these pages proposed a restoration of our constitutional currency by permanently lessening the value of the gold dollar till it was equivalent to the then average greenback dollar, which at that time constituted our actual currency. That method would have proved effectual and harmless; but it would have given unfriendly criticism such means of exciting prejudice, which calm reason would have found it difficult to allay, that its early adoption was hardly expected. It was, however, believed to be

the only efficient remedy for the evils then felt and apprehended, that the somewhat impatient dispositions of our people would be likely to submit to. Its ultimate adoption was therefore looked forward to with no little confidence.

"Subsequent reflection has convinced the writer that one important element was omitted in this calculation.] 'The effects of the great and continuing influx of the precious metals from the more newly wrought mines had been overlooked, and the future was judged of by the standard of the past when that element did not exist. The incorporation of this new condition among the terms of the problem causes an essential change in the ultimate result, and will be our chief subject of consideration in the present essay.'"

It will be seen from the foregoing extracts that Judge Mason's style was clear and forcible and that his candor impelled him to the admission of having made mistakes when he saw he had fallen into them.

Of Judge Mason's three children, all daughters, two died in childhood, and his wife followed them in March, 1873. Later in 1873, his remaining daughter, Mary J., was married to Commander, now Captain George C. Remey, of the U. S. Navy. For some months before his death, Judge Mason's strength had gradually declined without the manifestation of any definite malady, and on the 25th of February, 1882, he expired at his farm a couple of miles from the city of Burlington.

Touching the estimation of Judge Mason's life and character we append a letter from the distinguished Iowa artist, George H. Yewell, Esq., who knew him intimately.

HILL VIEW, WARREN COUNTY, N. Y., }
September 4th, 1893. }

Judge Mason always made me think of a noble Roman; single minded, simple hearted, just, honest, temperate and patriotic; doing with an inflexible will what he thought was right, and careful of the rights of others. He was eminently a *just* man. He was a patriotic man, and an American to his heart's core. He was, I believe, a life-long democrat in the highest sense of the word. He was opposed to the war only, I believe, for the reason that he thought a war would mean the death-blow to a republican form of government. I remember that his letters to me at Paris just before, and at the time war was declared, seemed those of a man whose heart was nearly broken. In a letter to me at Paris, written from Burlington, Iowa, November 4th, 1861, he says:

"Our whole country is transformed into a military camp. Go into any of our towns and you see men in uniform moving about the streets, sometimes in companies or squads, sometimes singly or in numbers of two or more. A

sort of martial law prevails all over the country. Men are arrested and thrown into prison on suspicion, and a writ of habeas corpus which would never be disregarded in England is laughed to scorn. Several of the States—especially Missouri, Kentucky and Virginia are to a great extent laid waste. I know of no country on earth in a more deplorable condition than ours, and it does not seem to me to be improving. Men are flocking into the army from all quarters for the means of obtaining a livelihood. There is said to be half a million of men or more already in the service in the Northern States and nearly as many more in the South. There will be no difficulty in raising as many more if the means can only be provided to pay, feed, and clothe them. I am heart sick at the prospect before us, but hope in some unlooked-for way we may escape from our present troubles without individual or national ruin, though the probability of such result seems small. I have long since offered my services to the government whenever they are needed, but have not yet been called on and probably shall not be. I expect to spend the winter in Washington."

In this same letter he also writes:

"The Democratic party nominated me for Governor, but afterwards a third party styling itself the Union party, proposed to unite with the Democrats and go for Col. Merritt, who had just returned from the war with the smell of gunpowder upon his garments, and thinking that in this manner the Republicans would more probably be beaten I withdrew from the canvass."

(The Republican candidate was Kirkwood.)

In November, 1868, he wrote from Burlington to me in Rome:

"I scarcely expect to ever see a constitutional government restored in this country. Grant may, if he will, become a second Washington, but that is hardly to be hoped for, judging by the examples afforded by the world's history. The military power will hardly yield again to the civil. Theoretically it will do so, but not practically. The army will govern us for many years to come, and the maxims and principles which prevail in Europe will be substituted for those which our fathers vainly hoped had been established here for all generations. The republican day dreams of my youth and earlier manhood are at an end. A centralized government has taken the place of the federal constitution, and that central government must necessarily be imperial by whatever forms it is controlled. I am accommodating myself to this change as best I may."

In November, 1872, he writes again upon this subject, ending with this paragraph.

"I look upon the future of the republic with gloomy apprehension, but still I shall be glad to find myself mistaken."

I think he lived long enough to find that there was more vitality in our republic than he had been led to expect.

In this same letter, *apropos* of what I said about his being like an old Roman, is the following:

"I suppose that you are back again in Rome for the winter. I should like

for one season to breathe the same balmy air as that inhaled by the stalwart old republicans and patriots who have long been the theme of my admiration. Our winters are too severe; but then they are our own."

The great sorrow of his life came with the death of his wife in the latter part of March, 1873. About the middle of the following July his daughter was married to Captain George C. Remey, of the U. S. Navy. A few days later all three sailed for Europe, landing at Queenstown, visiting Ireland, Scotland and England, and going from there to Belgium, Holland, and up the Rhine into Switzerland. They came down into Italy where I met them first in Perugia and afterwards in Rome, which city and the surrounding country greatly interested him. He was especially drawn to the study of the unhealthiness of the Roman campagna, and, on arriving later in Paris, he wrote me a long letter giving his views regarding the cause of the malaria, and how to remedy the evil.

They sailed from Liverpool for home on the 3rd of January 1874. He at once entered into the subject of the resumption of specie payments, of which he wrote to me from Washington under date of February 7th, 1874:

"I am kept busy with various matters, chiefly among which is my plan for the resumption of specie payments in such a way as to create no disturbance in the relations of money and property, and to secure all the most essential advantages of a convertible currency from the date of the passage of the law on that subject. * * * You expressed a wish to see a pamphlet I had prepared on this subject in 1872. * * * I will send you one if they arrive (from Burlington) as expected, from which you will see the general plan by which I expect to attain my object. I know I understand this matter better than any one in congress. It has been a study with me for many years, and I have made many improvements in the manner of elucidating it since the pamphlet was printed. * * * If I shall succeed in successfully solving the most important problem of the day I shall be tolerably well satisfied with myself; and if I can follow this up by other measures equally important which I have long had in view, and which will follow naturally from this, I shall feel that I have made a reasonably good use of the talent that was committed to me by the Great Father, and shall be willing, as far as this matter is concerned, to render my final account. * * * If I can secure to my country the objects I have in view, I shall envy no man the laurels gathered by the bloody hand of war."

He concludes this letter, —a long one in which he touches many subjects, — in a mood of sad tenderness, referring to his wife, and two young daughters who died sometime about 1853 within a few days of each other. Of his own departure he writes to me:—

"And when, at no very distant day, you shall learn that the dreaded passage which interposes between you and the unseen world has been accomplished by me, let no dismal thoughts take possession of your mind, but waft me your kind congratulations that apprehensions and agony have been exchanged for that rest and happiness which faith teaches us have been prepared for us on the shores of a happy hereafter.

"My thoughts are again with my wife and children. I wonder how they communicate with each other without the use of the material organs of speech and hearing. Perhaps they have to go through an infancy, and learn a new mode of exchanging ideas; and who can tell but that those little children who were taught the language of this world by their mother have since been repaying their obligations in this respect by giving her the benefit of their education during the more than twenty years that they preceded her in the other."

He then quotes the lines of Mrs. Barbauld ending with

"Give little warning.

"Say not good-night, but in some brighter sphere

"Bid me good morning."

Personally Judge Mason was a man over six feet in height, thin and somewhat angular. His movements were energetic and *direct*, and he carried himself erect, a habit no doubt formed during his military education at West Point, where he afterwards became a professor of mathematics. I remember he once told me that during his professorship at West Point he used to spend his vacations at his old home and birth place, Pompey, Onondago County, N. Y. In going across the country several changes had to be made. The last stage of his journey was made in a light wagon driven by a boy who carried the mail. This boy afterwards became the celebrated New York citizen, Leonard W. Jerome.

His mind was, naturally, a judicial one. He listened attentively, and arranged his thoughts, exercising judgment over what he was about to say before saying it, not given much to talking, but rather a reticent man; capable of being very interesting when he did talk, and with a quick sense of humor that brought with it a cheery smile and a twinkle of the eye. He was a pure man. I never heard any but pure words come from his lips. He was, as I before said, a very *just* man:—just, merciful and kind-hearted. He had no bad or useless habits; used no tobacco or spirits, and I believe never drank coffee or tea until he was quite advanced in life. He was careful of money, economical and self-denying, and yet very few people knew how many young men he befriended, advised and assisted with money. I know of one, myself, for whom he did all of that and more, for to me he stood in the place of a father, giving me what was better than money or advice,—affection.

I will conclude with an extract from a letter written to me from Burlington, dated January 25th, 1852, a few months after I had begun my art study in New York, chiefly through his assistance and efforts in my behalf.

"I am anxious to hear from you again since you have been for some time in attendance at the Academy of Design. I hope all your expectations will be realized. I take great interest in your success, and am expecting something extraordinary as the result of your studies and efforts. Let nothing dishearten you. The pursuit is a noble one. I trust you will strive to stand in the front rank among artists. In your profession, as in all others, there must frequently be causes and occasions of discouragement, but perseverance and determination will be sure to carry you through triumphantly if your health does not fail

you.—How are your financial affairs? Let me know whether you need anything on that score. Your expenses are not great, but I hope you will not deny yourself anything necessary to your progress in your studies."

GEORGE H. YEWELL.

In conversation with Hon. Geo. G. Wright, of Des Moines, a few days since, he said:

You wish my estimate of a man dear to me.

Mason (Charles), Williams (Joseph), Wilson (Thomas), were our District and Supreme Court Judges for the Territory. They were succeeded in the State by Hastings, Kinney, Hall (J. C.), Greene (Geo.). Williams (Jos.), was also of the Supreme Court after the State was admitted. After that Norman W. Isbell, W. G. Woodward, and myself. Isbell resigned in 1856, and L. D. Stockton, of Burlington, took his place. He died in 1860, and I took his place, and among my other colleagues were Ralph P. Lowe, Caleb Baldwin, Jno. F. Dillon, C. C. Cole, Jos. M. Beck, Elisha Williams, of Clayton. The first State District Judges were Geo. H. Williams, James Grant, Davenport, Cyrus Olney, Fairfield, and Jas. P. Carleton, Iowa City.

I was admitted to the bar in Iowa under Judge Mason, on April 1st, 1841, at Fairfield. There were present at that time David Rorer, W. H. Starr, Rich. Reid, Weld (my first partner), W. H. Wallace, J. B. Teas, Thomas Gray (just admitted, I believe, though he may have been Deputy Clerk of the Courts), Samuel Shuffleton, Cyrus Olney, James W. Grimes, Richard Humphreys, Sam. W. Summers. Mason was from New York, and appointed by Van-Buren in 1838. He was a little awkward in his movements, and yet, a graduate of West Point, was always manly and dignified in manner. He was a most conscientious man, and his pole-star was to administer the law and justice according to law; and technicalities hampered him but little, as his natural acumen intuitively led. Very industrious, he was impatient of restraint and cut his way to his conclusions, often asserting what he believed law and justice dictated, regardless of precedents. If we consult Morris' and the first volume of G. Green's Reports, we shall see how active his brain, how large a share he took in settling the law in those early days. His was an aggressive mind—never behind others in important or advanced ideas in legislation. He was very positive in opinion and very inquiring in disposition. A member of the Commission reporting the Code of 1851, and the most active member of it, their report will stand a record in all its parts, of how ready he was to innovate upon the established law and strike into new paths. Among other things he was then abreast with the most advanced legislation at this time as to *property and personal rights of women*, proposed to abolish all laws for the collection of debts of over (I believe) \$100, and all usury laws. He always had sincere and positive convictions, was somewhat credulous, took what any one would say—where there was no reason to suspect—as correct, was confiding and the very soul of honor and integrity. Quick of speech—when excited not a little apt to stammer—he at times would fail in giving exact and clear expression to his views. He was better fitted for the bench than the bar, for a desire to

repress his rapidity of utterance caused him to hesitate in expression, and thus he was at fault as an advocate. And yet he grasped with readiness the law and the facts, and brushed aside non-essentials. Such a mind—intuitive, inquiring, laborious—was, as will be readily seen, just and well adapted to the position of Commissioner of Patents, a place held by him for years, and it may be doubted whether there was ever any better in that high office.

He was economical, saved his money, lived on his farm near Burlington, was not neglectful of money-getting, and died leaving a good estate to his only heir. As a man he was as much respected and esteemed as any of the early jurists and public men of our Territory and State. He was honest as a man and a judge, of the cleanest habits, had an utter abhorrence of the dissolute and intemperate, and exercised a most beneficial example on the side of morality.

RAILROAD LEGISLATION IN IOWA.



IT WAS said by one of the most sagacious of our public men that government in a republic was not an exact science, that it was simply a series of experiments undertaken for the public welfare and liable to modification whenever the results failed to secure the ends proposed; that the laws of the Medes and Persians were not fitted for the conditions of a free and progressive people. The truth of these propositions is clearly demonstrated in the railway legislation of the State of Iowa. During its existence as a Territory we have been unable to find anything like legislation on railroads, but in the first session of the General Assembly of the State we find under the head of "Incorporations" an Act to authorize general incorporation, approved February 22nd, 1847, the first section of which authorizes any number of persons to incorporate themselves for the transaction of any business that may be the lawful subject of a general partnership, including the establishment of ferries, the construction of railroads and other works of internal improvement.

They may make such regulations as they please in relation

to the management of their business not incompatible with an honest and legal purpose.

They may render their individual interests in the corporation transferable, the death of a member shall not terminate the corporation, they may sue and be sued in their corporate name and may exempt private property from corporate debts, and may hold, buy and sell real estate; all corporations for constructing railroads and other works of internal improvement shall file a certified copy of their articles of association in the office of the secretary. A notice was to be published in some newspaper in the county where the organization was, giving the name of the corporation and the principal place of transacting business, the general nature of the business to be transacted, the amount of capital stock incorporated, amount paid in and the times and conditions on which the remainder is to be paid. The corporation shall not be permitted to continue for more than twenty years, but may be renewed for a like time by the unanimous consent of the corporators. Intentional fraud in the transactions of the company shall subject the parties guilty to fine and imprisonment, and any party injured by such fraud may recover damages from the corporation. The payment of dividends that will leave insufficient funds to meet the liabilities of the company shall be deemed fraud. A failure to comply with the foregoing regulations renders the individual property of the members of the company liable for corporate debts. The Act closes with a section that seems to be in conflict with the foregoing and evidently was added by some one who was not fully in sympathy with the law.

Section 26 reads as follows: "The private property of each stockholder shall be liable for all debts of the corporation to the amount of stock owned by such stockholder at the time when such debts were contracted and also to the amount of stock owned by such stockholder at any subsequent time."

On January 24th, 1848, a joint resolution was passed instructing the Senators and requesting the Representatives in

Congress to procure from the government of the United States a grant of land for the construction of a railroad from Davenport by way of Iowa City, Monroe City, Raccoon Forks, to some point near Council Bluffs on the Missouri River in this State.

On January 22nd, 1848, a memorial was made to Congress asking for a grant of land to aid in the construction of a railroad from Dubuque through the counties of Dubuque, Jones, Linn, Johnson, Washington, Henry, and Lee to Keokuk. The memorial, in addition, asks for the improvement of the Upper and Lower Rapids of the Mississippi and styles that river "a great arm of the ocean upon which the surplus produce of the western farmer finds its way to feed the starving population of the old world," the object of this railway being in part to avoid the Rapids and to furnish pine lumber for a region that could not well be settled from the scarcity of timber. This project, which evidently got but little further than the memorial, was unpopular with the river cities between Dubuque and Keokuk and was generally afterward known as the "Ram's Horn."

An Act granting the right of way to the Davenport and Iowa City Railway Company was approved January 14th, 1851. This grants to the company the right of way through any street or alley of Iowa City from the eastern boundary to Center Market, and also a strip one hundred feet wide through Section 16 and any other land that may be owned by the State of Iowa. In obtaining the right of way for the railroad over the lands of individual proprietors the grant may be from individual owners, agents, or guardians, and neither acknowledgment nor record shall be necessary to the validity of the grant. In case of refusal to grant the right of way the judge of the District Court shall, on the application of either party appoint three disinterested free-holders who shall inspect the premises and assess the damages (if any) the owner will sustain by the construction of said road, and shall make report in writing to the clerk of said court, who shall file and

preserve the same; and if the company at any time before entering upon the land for the purpose of constructing the road shall pay to the clerk for the use of the proprietor the sum so assessed they shall be fully justified in constructing and maintaining their said road over and across said premises. The right of appeal is given, but the railway company shall not be liable for costs of appeal unless a greater amount of damages is recovered than the first award. In the case of non-resident owners notice is given by publication and the damages assessed as in the case of residents by the three disinterested free-holders.

On January 14th, 1851, an act was approved for the relief of the Rock Island & LaSalle Railroad Co., which was authorized to build a depot in the city of Davenport and carry freight and passengers across the Mississippi River between Rock Island and Davenport, and that when a railway was built westerly from Davenport towards the western part of the State that said company would have the right to purchase the depot and carry freight and passengers. This legislature granted the right of way to the Camanche & Council Bluffs, the Lyons Central, the Iowa Western, and the Dubuque & Keokuk roads by statutes which seem to be exact copies of the grant above quoted to the Davenport & Iowa City railroad.

A joint resolution approved January 5th, 1853, memorializes Congress for a grant of land from Burlington and Keokuk to some convenient point of junction east of the Des Moines River and thence west to the Missouri River at some point near the mouth of the Platte; another, approved the same day, asking a grant from McGregor Landing on the Mississippi in Clayton county to some point near the mouth of the Big Sioux River. On December 30, 1852, a memorial and joint resolution was approved asking a grant of land from Davenport by way of Muscatine to a point at or near Council Bluffs on the Missouri River. On January 5, 1853, a memorial and joint resolution was approved asking a grant of land for a railway from Dubuque on the Mississippi, by way of Fort Des Moines, to

a point on the Missouri at or near Kaneshville. The reason urged for the grant was the Act of Congress granting lands to Illinois and Missouri for similar purposes, and much stress is laid upon the fact that the lands owned by the General Government are exempt from taxation. On January 18, 1852, a General Act was passed granting to railroad companies the right of way. Very little change has been made in the provisions of this law. The first section authorizes the railroad company "to take so much land as is necessary for the location, construction and use of the road, and to remove and use for its construction and repair any earth, gravel, stone, timber, or other material on the land taken, *provided*, the land so taken otherwise than by the owner's consent, shall not exceed one hundred feet in width, except for wood and water stations, unless where greater width is necessary for excavation, embankment, or depositing waste earth." This proviso was attached to the authority to take the lands by condemnation at the instance of Gilman Folsom, a member of the House of Representatives from Johnson county. Mr. Folsom was a lawyer of great learning and of profound convictions, and among these was a belief that it was unsafe for the State to extend its power of eminent domain to any corporation beyond the absolute necessities of the situation. His reasoning was this: that for depots and stations these corporations could buy the grounds needed; if this could not be accomplished, the one hundred feet properly utilized would, while perhaps at some inconvenience, furnish the necessary facilities and the business could be done on the hundred feet right of way. The law has since been changed, authorizing the condemnation of additional station grounds, and it is now generally conceded that any fears of the abuse of this power were groundless. There are nearly one thousand railway stations in the State, and condemnation proceedings have been exercised in not more than six instances. Where, for any reason, the value of the land required for the road can not be agreed upon it shall be determined by commissioners

appointed by the sheriff of the county in which the lands are located. The commission shall be composed of six freeholders, unless a less number shall be agreed upon; they shall report to the sheriff the amount of damages found and a record of the same shall be kept. By payment to the sheriff of the amount of the award the railroad company may enter upon the lands. The right of appeal is reserved to either party. Suitable notice is provided for non-residents, the railway company is allowed to raise or lower any highway and authorized to carry their railroad across, over or under any railroad, canal, stream or water course where it may be necessary, and is required to so construct its crossings as not unnecessarily to impede the travel, transportation or navigation upon the railroad, canal or stream so crossed. The railroads shall be liable to damages in consequence of neglect of the provisions of the Act. The railroads are authorized to pass over, occupy and enjoy without payment of damages any of the school, University, saline or other lands of the State, provided no more land is taken than required for the necessary use and convenience of the corporation. "When any person owns land on both sides of any railroad the corporation owning such railroad shall, when required so to do, make and keep in good repair one causeway or other adequate means of crossing the same."

On January 25, 1855, an Act was approved which makes it lawful "for every railway company organized under the laws of this State to issue its bonds to secure the payment of money borrowed for construction or equipment, at such rate of interest as it may deem expedient, and may sell the same at such discount as may be necessary; and such bonds shall be legal and binding. That when any company shall have received, or may hereafter receive, the bonds of any city or county upon subscription of stock by such city or county such bonds may bear interest at any rate not exceeding ten per cent., and may be sold by the company at such discount as may be deemed expedient." In the decision of the State Supreme Court in

the Wapello case the writer says this section of the law was intended to strengthen the authority on which the city and county bonds had been issued to aid in the construction of railroads, but the decision denied the power of the Legislature to make a grant of this character.

On the same day an Act was approved which authorized any railway in the State to intersect, join or unite with any other railroad in an adjoining State on the State line or elsewhere as may be agreed upon; such railroads were authorized to merge or consolidate their stocks upon such terms as may be mutually agreed upon, provided the consent of three-fourths of the stockholders in amount shall be obtained. They are empowered to extend their lines into other States, and their rights and privileges over such extensions shall be the same as if in this State. The railroad company connecting with another road at the boundary of this State shall have the power to make such contracts and agreements with any such roads constructed in an adjoining State for the transportation of freight and passengers as the board of directors may deem proper.

LAND GRANTS.

On July 14th, 1856, the Railroad Land Grant Act was approved. The title of the law is as follows: "An Act to accept of the grant and carry into execution the trust conferred upon the State of Iowa by an Act of Congress entitled an Act making a grant of lands to the State of Iowa in alternate sections to aid in the construction of railroads in said State. Approved May 15th, 1856."

This law was framed by N. B. Judd, a prominent Chicago lawyer, who was at the time acting as the attorney of the Chicago & Rock Island Railroad. Very little change was made, the bill passing as it came into the hands of the committee. Ben Samuels, a prominent attorney from Dubuque, took charge of it in the House, and Mr. Coolbaugh, a leading banker of Burlington, in the Senate. Maturin L. Fisher was President of the Senate, and Reuben Noble Speaker of the

House. The General Assembly accepts the grant upon the terms, conditions and restrictions contained in the Act of Congress. The lands granted for the purpose of aiding in the construction of a road from Burlington to the Missouri River near the mouth of the Platte were granted the Burlington & Missouri River Railroad Company. Those to aid in the construction of a railroad from Davenport *via* Iowa City and Fort Des Moines to Council Bluffs were granted to the Mississippi & Missouri Railroad Company. Those from Lyons running as nearly as practicable along the forty-second parallel across the State to the Missouri River were granted to the Iowa Central Air Line Railroad Company. Those from Dubuque to the Missouri River at or near Sioux City were granted to the Dubuque & Pacific Railroad Company. The lines or routes of the roads were to be fixed by the first day of April following. The roads were each required to build seventy-five miles within three years and thirty miles in addition for each year thereafter. The gauge was fixed at four feet eight and one-half inches, and the roads to be finished in a style and of a quality equal to the average of other first-class western roads, and where intersected by other roads to make all turn-outs, sidings and switches as may be necessary for the transportation of all freight and passengers over either or any of the roads hereby mutually accommodated, and at rates not to exceed the regular charges on such roads. The rights of any claimant or occupant of any of the lands granted were protected and the company was required under certain conditions to deed lands to claimants. The companies were required to file written acceptance of the Act, and were required at all times to be subject to such rules and regulations as may from time to time be enacted by the General Assembly of Iowa. They were required to make an annual report to the Secretary of State and accept the grant with the conditions imposed and in no event to have any claim or recourse on the State of Iowa.

Nearly three and one-half millions of acres of land were by

this Act disposed of and not a dollar was expended in influencing the members or any one else. It may be doubted whether this could now be done without very considerable expenditure in this line. The lands when sold averaged probably from seven to eight dollars per acre. Lyons, Maquoketa and Anamosa were, by special Act, authorized to subscribe to the capital stock of any railroad corporation after an election had been held and the majority of the voters had approved of such subscription.

On January 28, 1857, an Act was approved supplemental to the Land Grant Act which authorized a disposition of the lands by mortgage or deed of trust for the purpose of securing monies for the completion of the roads, authorized the payment of interest not to exceed ten per cent. per annum and the issuing of bonds which might be sold at the best price that could be procured, provided the monies realized were applied exclusively to the construction and equipment of the roads. The rights of the State and Congress under the original grant were reserved. On the same day an Act was passed directing the treasurer of Scott county to pay to the treasurers of Cedar, Muscatine and Johnson counties a portion of the county tax collected from the non-resident stockholders of the Mississippi & Missouri Railroad for the years 1857 and 1858, so that each county shall receive such portion of the taxes collected from non-resident stockholders as the number of miles in each county is to the whole length of the railroad so constructed. On January 21, a joint resolution was approved asking Congress to repeal the duties on railroad iron, the resolution stating that the present duty was a serious burden upon the people of the State by reason of the increased expense of constructing railroads. On the same day a memorial of the General Assembly was approved asking the construction of a railroad from the western border of the State to the Pacific Ocean. In the light of history the following paragraph is at least interesting: "Your memorialists will not presume to dictate whether the General Government

should embark directly in the construction of so great a work or whether it would be more prudent to aid private enterprise in its construction by grants of land, mail contracts, etc." With regard to the route, "they regard the valley of the Platte River and through the South Pass of the Rocky Mountains as the natural highway to the shores of the Pacific from the middle and western States and the great emigrant route to Oregon and California."

On March 20, 1858, an Act was approved which confined the liability of the stockholder in a railroad company to the amount of stock held by him. The balance of the Act seems to be a repetition of the authority to borrow money by mortgage, to issue bonds, and for recording the mortgages. On March 22, 1858, an Act was approved "relating to the crime of placing obstructions on railroad tracks or removing any rail therefrom, or in any way to injure such railroad or do any other thing whereby the life of any one is or may be endangered; the punishment was confinement in the State penitentiary for life or any term not less than two years. On the same day an Act was approved which authorized counties to use swamp lands to aid in the construction of railroads; the proposition must be submitted to a popular vote, the State to be released from all liability for reclaiming the land.

On March 31, 1860, a joint resolution was approved asking a grant of land to aid in the construction of a railroad from McGregor to the Missouri River westward across the State of Iowa. By an Act approved March 7, 1860, the time for the completion of the first seventy-five miles of the Dubuque & Pacific Railroad Company was extended. By an Act approved March 17, 1860, the grant of lands to the Iowa Central Air Line Railroad Company was resumed, the reasons given that the company had failed to comply with the conditions of the grant and had utterly failed to construct any part of its road; and by an Act approved March 26, 1860, the grant was conferred upon the Cedar Rapids & Missouri River Railroad Company, the conditions being that forty

miles should be completed the first year and thirty miles a year for two years thereafter.

By an Act approved April 7, 1862, the Dubuque & Sioux City Company was required to release certain swamp, school and river lands on the line of their road, the compensation being an extension of the time fixed for completing their road. By an Act approved April 8, 1862, "Any railroad company shall on request permit any other railroad company to connect with and shall draw cars over its road at reasonable times and for a compensation not exceeding its ordinary rates. In case of a disagreement as to connection or rates the judge of the District Court may appoint three disinterested persons who shall determine the terms of connection and the rates and regulations necessary thereto. By an Act approved the same day the secretary, treasurer and general superintendent were required to reside in Iowa, that their offices shall be kept within the State at a place designated in the charter as the general business office of the company, at which office the original record, stock and transfer books and all the original papers and vouchers necessary to such company shall be kept. The treasurer was required to keep a record of the whole financial condition of the company which should be open at all reasonable hours for the inspection of any stockholder and any investigation instituted by the Legislature of the State. A report shall be made in the month of January of each year to the Secretary of State, showing the capital stock of the company and the amount paid thereon, the amount of bonds issued and how secured and all other indebtedness, the length of said railroad when completed, how much built and in use, the number of acres of land donated or granted, by whom, and what disposition had been made of them, the gross receipts, net receipts, and dividends and how disbursed, and such other facts necessary to give a full statement of the affairs and condition of said roads.

The board of directors may establish a transfer office in any other State in which may be kept duplicate transfer

books, but in no case can a transfer of shares be in force or binding until the same is entered in the original transfer book. On the same day an Act was approved "in relation to the duties of railroad companies" which required that each company make a report under oath to the Legislature, giving the amount expended in construction, equipment, depots and other buildings and miscellaneous expenses, the length of the road, number of planes in it with inclination to the mile, the greatest curvature of the road, the average width of grade and the number of ties per mile; that in the month of September of each year it shall fix its rates of fare for passengers and its rates of fare for freight, and shall put up in its station houses and keep posted printed copies of the same. When a railroad runs through improved or fenced lands the company shall make proper cattle-guards where they enter or leave such improved or fenced lands. At highways the company shall construct good and safe crossings. Failing to fence on both sides of its road against live-stock running at large the company is liable to the owner for the value of stock killed or injured, and for recovery it shall only be necessary for the owner of the property to prove the injury or destruction complained of, and in case the railway company neglects or refuses to pay the value after thirty days' notice it shall be liable for double the value of the property. Every railroad company shall be liable for damages sustained by any person, including its own employes, in consequence of any neglect of its agents, engineers or other employes. By an Act approved the same day, in relation to revenue, the railroads were required to make a sworn statement of the gross receipts of their roads for the year ending January first, and the Treasurer shall levy a tax of one per cent. on said gross receipts. The State Treasurer is to collect this tax and proportion one-half the amount among the counties through which the road runs in proportion to the number of miles of main track in the county. The tax herein provided shall be in lieu of all taxes for any and all purposes on the road bed, track, rolling-stock,

and necessary buildings for operating the road. By an Act approved February 18, 1864, railroad companies by their directors might issue construction and equipment bonds in sums of not less than fifty dollars, and by an Act approved March 12, 1864, to issue preferred stock, and change the corporate name of the company by the assent of two-thirds of the stockholders in amount, which change shall in no way affect the rights, powers or privileges of the corporation or its liabilities to third parties.

Chapter 86, laws of 1864, seems to indicate a strong desire on the part of the Legislature to facilitate the construction of railroads; it allows a drawback of fifteen per cent. on the gross earnings of any road or business coming to or going over any connecting road. The board of directors for the purpose of inducing the investment of capital in the extension of their road may enter into contract with parties furnishing the means, allowing the drawback, or may lease the road to those parties; this drawback may be mortgaged to secure construction bonds. The board of directors are authorized to make contracts for lease or joint running arrangements with connecting roads upon such reasonable and just terms as may be agreed upon by the parties.

An Act approved April 5, 1864, provides for the construction of railroad bridges across the Mississippi and Missouri Rivers; among the provisions of the Act are these: the supervisors of the county in which the bridge is located are to select the Iowa terminus, the company is authorized to select the place on the opposite bank, the plans must also be submitted to the supervisors for approval. The companies constructing these bridges may issue bonds and mortgage their property by consent of the stockholders, with the consent of the supervisors may construct roads for footmen and teams and charge rates of toll to be approved by them. One director must be a citizen of the State. No bridge shall be so located or constructed as to unnecessarily impair or obstruct the navigation of the rivers.

By an Act approved April 2, 1866, the railroad companies were authorized to issue preferred stock in payment of debts, which shall be entitled to dividends not to exceed eight per cent., the amount being limited to ten thousand dollars per mile. On the same date an Act was approved which is the first we have found so far of a stringent character and asserts the power of the State in the line of regulation and deprives the railroads of the power to protect themselves by contract, a right which seems to inhere to the transactions between individuals. It reads as follows: "That in the transportation of persons and property by any railroad or other company or by any person or persons engaged in the business of transportation of persons or property, no contract, receipt, rule or regulation shall exempt such railroad or other company, person or firm from the full liabilities of a common carrier, which in the absence of any contract, receipt, rule or regulation would exist with respect to such person or property." If this is understood, it follows that a railroad company may not relieve itself of liability even in a case where it carries goods at a very low rate under the condition that release from liability is an element in making the rate. At all events it seems to be the first positive assertion of power in the line of railway control. On February 11th, 1868, an Act was approved providing for the early construction of the Chicago, Rock Island & Pacific Railroad from Davenport to Council Bluffs. The preamble states this corporation having purchased at a judicial sale the property, rights, etc., of the Mississippi & Missouri Railroad Company and consolidated with the Chicago & Rock Island Railroad, a company chartered under the laws of Illinois, desires to complete its road to the Missouri river as soon as practicable. Section 2 which is all of the Act having any special interest, provides that the road should be completed to a connection with the Union Pacific within two years, and that the lands heretofore granted must be applied for that purpose, that the company shall at all times be subject to such rules, regulations and

rates of tariff for transportation of freight and passengers as may be enacted by the General Assembly. It further provided that the proceeds of 49,000 shares of stock issued and sold by said company, by and under the direction of its executive committee (which shall be deemed and taken to be full paid shares) shall be applied to the construction, completion and equipment of the road, and further required that the board of directors of said consolidated company shall postpone the annual meeting of the stockholders for the election of directors until the first Wednesday of June, 1867, and this company shall signify its acceptance of this Act by filing in the office of the Secretary of State a written acceptance thereof within 90 days from the passage of this Act. In case the company failed to comply with the requirements, it forfeited its franchises and corporate rights, and all lands granted to aid in the construction of the road. The striking peculiarities of this legislation are the authority exercised by the General Assembly to apply certain funds belonging to the company to a specific purpose, the legalizing an issue of stock, the taking the control of the road out of the hands of the stockholders and retaining it for one year in the hands of the directors who evidently were not in sympathy with the owners of the property. The filing the acceptance seemed in the nature of a contract with the State and no attempt was made to set it aside although there seemed ample grounds to do so. March 27, 1868, an Act was passed (and became a law without the approval of the Governor) to enable townships, incorporated towns and cities to aid in the construction of railroads. This authorizes the township or city authorities wherever sanctioned by a popular vote, to levy a tax not exceeding five per cent. on the assessed value of property, to be collected by the Treasurer. The amount must be expended in the township or the one contiguous, after an equal amount has been expended by the railroad company.

Chapter 79, approved April 3, 1868, makes the lessees or others running or operating roads in the State liable for

injuries to stock in the same manner as provided for railroad companies. April 7, 1868, an Act was approved to enable corporations to take and hold real estate for the purpose of constructing and maintaining dams and reservoirs to accumulate and hold water to supply engines—the same rules apply to acquiring the property by condemnation proceedings as in the right of way.

By an Act approved April 12, 1870, where a right of way has not been used for ten years it will be regarded as abandoned and any other company may occupy the same; if the landowner has been paid for his land the amount of damages goes to the old corporation and not to the landholder. There is little else in the legislation of this year that differs from previous enactments.

Chapter 65, Laws of the Fifteenth General Assembly, approved March 21, 1874, provides that a failure to use a railroad track for five years shall be regarded as abandonment, and all rights and privileges over so much as remains unfinished shall accrue to any person or corporation who may enter the abandoned work.

As a result of the panic of 1873, the prices of all the products of the farm were very low, while the rates charged by the railroad companies remained about the same as before. The high prices during the war and the six or seven years following had made the rates paid a small percentage of the value of property shipped; the reduction in the value of farm products made the existing rates burdensome and the control of rates by legislation became a part and parcel of the political campaign of the fall of 1873. The Legislature that assembled in 1874 came to the subject of railroad legislation with views widely differing on many points from those that had general acceptance up to that time, and which the railroad companies maintained with great persistency until the courts settled many questions with regard to the powers of the Legislature and the rights and duties of corporations.

Up to this time practically all legislation had been for the

express purpose of facilitating the construction of railroads, and although some assertions of power had been introduced into laws enacted and some restraining clauses put in, they were rather in the nature of the injunctions of an indulgent parent for the guidance of a favored child than the positive orders of an unbending and stern parent whose temperament makes every action of his son censurable. Whether this be a correct diagnosis of the situation or not, the General Assembly prepared to exercise powers and authority that were at least questioned by the subjects of it, and over which a long and bitter contest was waged. The granger Legislature went into the contest with a fixed resolution to assert its powers and settle its rights. The title to Chapter 68, approved March 19, 1874, is "An Act to establish reasonable maximum rates of charges for the transportation of freight and passengers on the different railroads of this State." They were classified according to the amount of their respective gross earnings for the preceding year, class A all roads earning more than \$4,000 per mile per year, class B earning less than \$4,000 and more than \$3,000, and class C all roads earning less than \$3,000 per mile. The passenger fare was limited to three, three and one-half and four cents per mile respectively for the three classes. A classification and a schedule of maximum rates were adopted for the roads. Of these rates class A roads were entitled to ninety per cent., class B one hundred and five per cent., and class C one hundred and twenty per cent. It was claimed that the rates were oppressive and many of the corporations refused to put the schedules and classification into effect and continued the resistance until every resource to defeat the law had been exhausted. In the light of the experience of the present day the rates and classification, considering the excitement of the times and the struggle that was precipitated, were certainly reasonable and more favorable than might have been expected. They were copied in the main from the Illinois rates and were the production of a mind familiar with the cost of railroad service and disposed to

act justly. The courts sustained the legislation in Iowa and a number of other western States where the same questions were raised and the railways affected by this contest have been known from that day to this in the stock market as "granger roads."

Penalties sufficient to bankrupt any road that resisted the execution of the law were imposed, but we are not aware that any of them were ever collected. The State having asserted its authority and being sustained at all points by the courts of the State and nation, good naturedly omitted penalties and only insisted on future obedience. Should the railroad history of Iowa ever be written the session of the "Granger Legislature" will be dwelt upon as the most interesting and instructive of the entire series, the transition from the period of nurture and indulgence to control, absolute and unbending, so far as statutory enactments could make it.

Chapter 123, approved March 15, 1876, was passed to enable townships, incorporated towns and cities, to aid in the construction of railroads. This prescribed the method of notice and election, the duty of the board of supervisors, the method of collection of taxes, and limits the amount levied under the provisions of the law to five per cent. The law closes with a section in which is implied a doubt whether the question of legislative control is entirely settled. The section reads as follows: "All railroads in this State constructed by or with the aid of any taxes levied and collected under the provisions of this Act shall be subject to the control of the General Assembly thereof in regard to the management of the same and the charges for the transportation of freights and passengers thereon."

As before stated the Legislature showed a disposition to treat with leniency the failure to adopt the tariff of 1874, and by an Act approved March 24, 1876, relieved the companies from criminal prosecutions and provided that no greater sum should be recovered in any case arising under the provisions of the law of 1874, in any civil action or proceeding than the

actual damage suffered; this, however, based upon a sufficient bond and the further condition that the law would be complied with, the classification and schedules adopted. The provisions of this contract must be officially accepted within sixty days.

The Seventeenth General Assembly repealed the Act of the Fifteenth, and in the place of the tariff and classification fixed by statute, enacted the commissioner law. The reasons why this was done have been variously stated and the impression was at the time quite general that the law was too rigid and did not afford the companies the latitude necessary to conduct their business satisfactorily to themselves and their patrons; in other words, the general feeling was that regulation had been carried too far and that greater freedom of action should be given. Governor Larrabee, who was probably the most active of all the members of the Seventeenth General Assembly in favoring the repeal and who certainly knew as much about it as any one, if not more, denies this *in toto*, and claims that the legislation was due to the persistent pressure brought by the corporations who had recovered somewhat from the conflict of 1874, and were desirous of repealing that law. He states positively that the law was generally popular and its repeal was against the drift of popular sentiment.

This law placed the general supervision of all railroads in the State in a commission of three members appointed by the Governor, who were to hold their office for three years and whose duty it was to enquire into any neglect or violation of the laws of the State by any railroad corporation doing business therein. The relation of the Commissioners was that of an advisory board without power to execute any of its orders, nor was there any machinery by which their findings could be enforced except the publicity given by the action of the board. The railroads were forbidden to discriminate in their rates, their charges must be reasonable, the Commissioners on complaint were required to make investigations and report to the Governor. The law was mainly a copy of

the Massachusetts statute which had for some years, under the able administration of Charles Francis Adams, been very satisfactory in that State. It did not, however, fully meet the views of a very considerable number of people and it was but a very short time before the propriety of increasing the powers of the board was agitated. During the session of 1880, very little legislation was passed; the companies holding lands by Congressional and State grants were required to place evidence of their titles on record. Chapter 191, approved March 27, 1880, authorized the condemnation of lands outside the right of way, to straighten the course of ditches where streams crossed the road. It is stated that the intent of this Act was not to create an additional right to divert a water course from its natural channel, but simply to give the right to condemn the land necessary for the right of way in all cases whereby conveyance to the railroad corporation it would have the right to dig such channels or ditches. By Chapter 133, Laws of the Nineteenth General Assembly, approved March 17, 1882, towns and cities may procure and donate railway companies sites for buildings. Upon proper petition by the approval of freeholders, may vacate streets and alleys for this purpose, but no public grounds, or improved property without consent of the owners. The other legislation of this session is simply of a police character.

Chapter 24, Laws of the Twentieth General Assembly, approved March 20, 1884, requires railroad companies where the roads cross to unite in establishing and maintaining suitable station houses when so ordered by the Railroad Commissioners, and keep them warmed and lighted, with suitable conveniences for the transfer of passengers and baggage. Chapter 133, approved April 3, 1884, gives the District Courts power to enforce the orders, rulings and regulations of the board of Railroad Commissioners in matters affecting public rights; the court is required to give these matters precedence over other civil business. It had been regarded by many as a mistake that the commissioner law

provided no means for the enforcement of its findings. To empower the Commission to do this was to establish a new court, the theory of the law being that the rulings of the board would so thoroughly commend themselves to the common judgment, that power to enforce would rather weaken than strengthen the Commission; in other words, publicity was thought to be all that was necessary in matters affecting public right. This law was a decided step in the other direction. Chapter 190, approved April 18, 1884, authorizes railway companies to condemn lands for additional depot grounds with the certificate of the board of Railroad Commissioners that such land is necessary for the reasonable transaction of the business of the road present and prospective. This legislation overrules the theory early advanced by Mr. Folsom that the State should never delegate the power of eminent domain to corporations except in cases where the construction of railways is impossible or at least impracticable without its use. Theories one after another yield to experience and as yet apparently no evil results have followed.

I have generally omitted laws in the nature of police regulations and matters like the resumption and regranting of the public domain granted by Act of Congress, as these matters have long since been finally disposed of and are of no interest to one who is studying the development of railway legislation in the State. The session of 1888 is important as making a wide departure from former sessions following in its legislation, largely the interstate commerce law.

Chapter 28 of the Laws of the Twenty-second General Assembly, approved April 5, 1888, is entitled an Act to regulate railroad corporations and other common carriers, to increase the powers and define the duties of the board of Railroad Commissioners, to prevent and punish extortion and unjust discrimination, and to proscribe a mode of procedure and rules of evidence in relation thereto.

The provisions are broad and apply to all railway, express, car, sleeping car, freight and freight line companies, and to any common carriers of passengers and property by rail.

All charges for transportation of passengers or property and for the receiving, delivery, storage or handling the same shall be reasonable and just, and any charges not reasonable or just are prohibited and declared to be unlawful.

Special rates, rebates, drawbacks or other devices are deemed to be unjust discrimination although a less rate may be allowed per hundred pounds on a full car load than on less than a car load of the same kind of freight.

No preferences or advantages may be given to any person firm, corporation or locality. All lines shall afford equal facilities for the interchanges of traffic, shall switch cars, etc. to all other lines upon such terms and conditions as may be fixed by the board of Railroad Commissioners.

No greater charge shall be made for a longer than a shorter haul over any railroad, all or any portion of the shorter haul being included in the longer, and no charge for transporting freight to or from any point shall be greater than a just and fair rate as compared with the price charged for the same kind of freight transported to or from any other point.

Pooling of freights is forbidden, schedules of rates must be posted, no advance of rates may be made without ten days' notice, reduction of rates may be made without notice, combinations against continuous transit, break of bulk and other interruptions not made in good faith for some necessary purpose are unlawful.

In an action for damages the court may compel the attendance of witnesses, the production of books and papers belonging to the corporation, and the claim that it will criminate the person shall be no excuse for a refusal to testify, this evidence shall not be used against the person testifying in a criminal proceeding.

In case of a complaint against a carrier for some act in violation of this law by which parties are injured the Commissioners may investigate and report their conclusions as to what reparation should be made to the parties injured and if the carrier shall cease to violate the law and make reparation for

the injury done, in conformity to the findings of the Commissioners he shall be relieved from further liability.

Whenever a carrier refuses to obey any lawful order or requirement of the board of Commissioners, they may appeal to the District Court which may restrain by injunction any violation of law or disobedience to the order of the Commissioners; there is reserved however the right of appeal to the Supreme Court.

The board of Railroad Commissioners was empowered and directed to make for each railroad doing business in the State a schedule of reasonable maximum charges for the transportation of freight and cars, the authority to make rates includes classifications, and the schedules so made shall in all suits brought against any railroad corporation be taken in all the courts of the State as prima facie evidence that the rates therein fixed are reasonable and just maximum rates and charges for the transportation of freight and cars. The Commissioners are required from time to time to revise the schedules and copies of the same are to be posted where they are accessible to the public.

Whenever complaint is made by an individual, firm or corporation that the rate fixed by the Commissioners is too high the Commissioners are required to investigate, giving the railway company an opportunity to be heard as well as the party complaining. Upon such hearing so provided for the Commissioners shall receive whatever evidence, statements or arguments either party may offer or make pertinent to the matter under investigation; and the burden of proof shall not be held to be upon the person or persons making the complaint, but the Commissioners shall add to the showing made at such hearing whatever information they *may then have or can secure from any source* whatever, and the persons complaining shall be entitled to introduce any published schedule of rates actually charged by any railroad company for substantially the same kind of service in this or any other State, and the lowest rates published or charged by any railroad

company for substantially the same kind of service, whether in this or any other State, shall at the instance of the complainant be accepted as *prima facie* evidence of a reasonable rate for the service under investigation. Or if the railroad company is operating or has traffic connections with any other railroad company outside the State the Commissioners in determining what is reasonable shall take into consideration the rate charged for substantially similar or greater service by said company in any other State.

Penalties are attached for extortion, unjust discrimination as to rates, classifications and the use of cars. One hundred pounds is made the unit of shipments in less than car loads, the car load the unit for large shipments, so that any amount less than a car load must pay the hundred pound rate, and the party shipping one car is entitled to the same rate on his car as the party shipping one thousand cars is to each of his cars.

The railroad companies may handle free or at reduced rates property for the United States, the State of Iowa, municipal governments, for charitable purposes, to and from fairs, for their own employes, their families and their private property, also preachers of religion, the officer of any railroad company and the families of said officer dependent upon him for support.

The Railroad Commissioners, their secretary and such assistants and experts as they may require shall in the performance of their duty be entitled to free transportation. Ten thousand dollars was placed at the disposal of the Commissioners to aid in making investigations and prosecuting suits for the enforcement of this law.

At the same session the special qualifications for Commissioner were stricken out and the board made elective.

Railroad companies were required to make the names of their stations conform to the name of any incorporated town within whose limits it has a station and a penalty is affixed to a failure to do so.

An important law was enacted at this session which author-

izes cities of over seven thousand inhabitants to require the construction of viaducts over or under streets. This law requires the railroad companies to build the viaducts and the cities to pay the abutting damages, the question of the necessity for the viaducts to be determined by the Railroad Commissioners.

Chapter 17, Laws of 1890, approved April 8, 1890, provides for joint rates correcting what was claimed to be prohibited in the former law.

Chapter 18, approved April 5, 1890, requires all cars to be equipped with automatic couplers and power brakes within a specified time, and all locomotives to be equipped with driver brakes.

The Legislature of 1892 amended the law for putting on the automatic coupler and the power brakes extending the time, corrected an error in the joint rate law, extended the naming of railway stations to unincorporated towns, and authorized the railroad Commissioners to require the railroad companies in addition to the reports required by previous legislation to furnish such information as in their judgment may be deemed necessary and reasonable.

The foregoing gives an outline of the legislation of the State on railways. Matters that are of a police character have been omitted as well as penalties, but enough has been given to show the trend of the legislative mind from the genesis of the railway in the State through the various phases of public sentiment during a period of forty-six years.

Very early in the history of the State the Supreme Court construed a statute to authorize by a popular vote cities and counties to issue bonds and subscribe for the stock of railroad companies. The anxiety for the building of railroads involved most of the cities and counties in the eastern part of the State in indebtedness that it took years to pay. In 1862, the Supreme Court reversed its former ruling and denied the authority of cities and counties to issue bonds for this purpose, repudiation followed and years passed without the payment

of principal or interest. The Supreme Court of the United States when this question was presented, held that the State court having sanctioned the indebtedness by its decision that *bona fide* purchasers were protected, or in other words, the State court being on both sides of the question that parties having in good faith furnished the cities and counties money on the faith of the first decision should have their rights protected.

The Constitutional Convention of 1857 limited State indebtedness to five per cent. on the valuation except in cases of war and invasion, and also limited in the same manner the indebtedness of cities and counties. It is probably owing to these provisions that the State and the counties are generally in good financial condition. These safe guards were generally at the time understood to have been adopted through the influence of Governor Grimes and Senator Coolbaugh, who though neither of them were members of the convention had great influence through the State with the leading members of their respective political parties. Whether this be correct or not there can be no question as to the wisdom of those provisions. At a period when men were disposed to run wild on railroad schemes, these wise provisions kept indebtedness within limits that our people without serious burdens upon themselves have been able to meet.

The railroad legislation up to 1874 was nearly all enacted with the intent to furnish the railroad companies all the assistance that could be rendered and it would be superficial in us to criticise it. These men in their day acted generally for the best interests as they existed at the time. The legislation of 1874 was a revulsion, and while some propositions were carried to extremes it developed the relation of the State to the corporations and settled the scope of the powers of the State. It was one of the experiments made for the public welfare. The reaction from this lasted several years, to be again followed by the legislation of 1888, and the reforms of the interstate-commerce law. Since that time there seems to be a

tendency in the other direction and a kindlier feeling seems to be growing. It is probable that the experiments will end in a system of railway management and control which, while not working injustice to capital invested, will further as far as practicable, all the material interests of the State.

PETER A. DEY.

Iowa City, October, 1893.

EARLY RECOLLECTIONS OF IOWA CITY.



HAVE been greatly pleased and highly entertained by reading Prof. Shambaugh's "Contribution to the Early History of Iowa," and as I was myself one among the early settlers of your beautiful city and county, nearly all of the persons therein named, together with most of the incidents related, were personally known to me.

I was a resident of the city during the first session of the Legislative Assembly held in the Butler building, also during the first held in the new, and I was a member of the two last sessions of that assembly held there, as well as a looker-on at the proceedings of the first General Assembly of the new State, in addition to attending several sessions of the Supreme Court of the Territory and State, and all of these opportunities, with a residence of two years in the city, made me familiar with the men and things connected with its first history, all of which rendered the reading of the "contribution" doubly interesting to me.

Most, if not all the men therein named, have no doubt, passed away to the silent shore, while many of the incidents connected with them are forgotten, and as one who still survives them, and who knew them long and well, I can bear testimony to their high character and sterling worth, while to me their memories will be ever green.

My brother and I took the contract from Judge Trimble to furnish the rock for the foundation of the old jail, and we

had in our employ for a time a half negro by the name of Brown, who with his wife resided in the city, and he was a strong, powerful man, and withal a desperate character of the very worst type. One morning after the jail was completed, I was in the law office of Gilman Folsom, when a Mr. Gardner from Old Man's Creek, entered and related that he had a large quantity of bacon that he had been smoking in an old house on the creek, stolen the night before, and I at once suspected Brown, and taking Mr. Gardner with me to the office of Justice Hawkins, he swore out a search warrant, and the justice authorized me to serve it, and taking Gardner and my brother with me we entered Brown's house unexpectedly to him, and while my brother covered him with a pistol, I began the search, and found a dozen or more of smoked hams, shoulders and sides under the bed with a curtain in front to hide them, all of which Gardner said were his. From the large quantity stolen it was evident that Brown had help, and I afterward found a lot more bacon in the house of a man named Hines, which Gardner also claimed to be his, and of course Brown and Hines were both held under heavy bonds to await the action of the grand jury, and failing to give them they were both sent to the new jail. Now at this time there also lived in the city two brothers by the name of Hoge, one of whom showed me his commission as a Mormon elder, and we had employed one of them with Brown in the quarry, while the other did but little work, and got his food and lodging wherever he could proc it. There were also living in the city at this time two other men, whose names were Wallace and Green, and all four of them were single men. Green did nothing that I ever knew of, but Wallace was a worker, and seemed to be a very nice young man. Now at this time that grim old chieftain Poweshiek, with several wives and daughters, paid the city a formal visit, camped down on the bottom, tied his horses' fore feet together, and turned them out to graze, and here he remained for several days with his wives purchasing their outfit, and tak-

ing in the city generally. He was a very large, heavy man, good looking, every inch a chief, and very popular with the white man.

One morning early the old chief came up into town and reported that four of his best horses were stolen from him in the night, and on this news the excitement in the city was great indeed. Judge Lynch had only a short time before this adjourned his court, and yet in spite of all his judgments faithfully carried out by his sheriff "Larruping" John Adams, here were four more horses stolen right under John's nose. Upon looking about and counting noses, it was found that Green, Wallace, and the two Hoge brothers were missing, and suspicion fell upon them. Now at this time there was a desperate canvass in the county for the office of sheriff, and the "Locofocos" had nominated the old sheriff, Sam Trowbridge, while the Whigs had put forth Walter Butler, and in my hearing some one said to Butler, "catch them thieves and bring them and the horses back or withdraw from the canvass," and in less than half an hour Butler had selected his men, and with fast horses was on the trail, and in about ten days he had overhauled them crossing the Missouri line into Arkansas. With the thieves it was, as they supposed, a race for life, and they too had the very best of horses, and the chase was a long one; but Butler was too much for them, and he returned after about fifteen or twenty days with all of the horses and with Wallace and the two Hoge brothers, but Green had made good his escape. The horses were returned to the old chief, and the prisoners sent to jail to keep company with the negro, Brown, and Hines, until either Judge Lynch or Judge Williams should determine their fate, and now there are in that jail five of the most desperate villains that had ever made a track on Iowa soil. No one knew the construction and weak points of that jail so well as the negro Brown, for he had not only assisted my brother and me, about the foundation, but he had attended the masons while laying up the brick walls, and he had a wife in the city who could

supply him with all the tools he needed, and he was therefore the right man in the right place so far as the thieves were concerned. The jailer at this time I think was a man by the name of Pierson, a good, honest, easy-going man, with little or no force, and one night while he was sleeping, the prisoners cut a hole through the ceiling, and once up it was but the work of a moment to cut out only one brick in thickness of the gable with a small crowbar, and one by one they all descended to the ground, were at liberty, and not one of the five was ever caught again.

The two Hoge brothers were afterwards hung at Muscatine for murder, the negro Brown was shot and killed in Missouri by the vigilants, and what became of Green, Wallace and Hines I never knew.

Walter Butler was at that time a man of nerve and energy, brave as a lion, big-hearted, and generous to a fault, and it was a very easy matter for him in those days to pick up in a moment a troop of men as brave and resolute as himself. With all of his popularity he was defeated in his race for sheriff, and I think this had a sad effect upon him, for I heard of his death not long afterwards. I have thus traced out some of the most exciting criminal incidents of those early days.

SAMUEL MURDOCK.

Elkader, Iowa, Aug. 23, 1893.

THE DEATH OF MRS. SALTER.



ON THE 12th of June last, a most shocking accident occurred in the city of Burlington. While the Rev. Dr. Salter, in company with his wife and a couple of lady friends were taking an afternoon ride in a surry, along the shady drives of Aspen Grove cemetery, passing near where some men were grubbing up a dead tree, quicker than thought, the roots of the tree snapped and it fell across the carriage and Mrs. Salter was instantly

killed. Mr. Salter was severely hurt while the other occupants of the carriage escaped unhurt.

Sudden and unanticipated death is a severe shock to friends at any time, but it was doubly so under circumstances of this character. The death of Mrs. Salter was more than a family bereavement, a whole church mourned her loss, and a whole city sat in the shadow of deep sorrow at her departure, and in his affliction Dr. Salter had the sympathies of the numerous readers of his frequent contributions to the pages of the HISTORICAL RECORD. For almost half a century she has been an efficient and loving helper of one of Burlington's most faithful and learned church pastors, and to be thus snatched suddenly from his side must have overwhelmed him with a grief nearly inconsolable.

In the life and prosperity of Dr. Salter the HISTORICAL RECORD has more than a passing interest. As an intelligent and interesting historical writer, he has been a valued and voluminous contributor to its pages. At the fifteenth annual meeting of the State Historical Society, held June 23d, 1873, he delivered the annual address, commemorative of the two hundredth anniversary of the discovery of Iowa by Marquette and Joliet. Born and educated in New York, the doctor came to Iowa during her territorial days, when he was just out of his minority and was entering into the period of hopeful and promising manhood, and entered into missionary labors on the ragged edge of civilization, in its western advancement and progress.

Chosen to a pastorate of one of the churches in the metropolitan city of Burlington in 1856, and a continued occupant of its pulpit for the past thirty-seven years, he has left an impressive stamp, not only on the congregation that listened to his learned and excellent discourses, but on the whole community of which he has thus long been a member.

The fatherhood of God and the brotherhood of man being the basis of his creed, he has exerted an influence that has been widely extended, and of the most beneficial character.

Believing that his whole labors should not consist in discussing abstruse questions of polemic theology, or that he should confine himself exclusively to the pulpit and pastoral duties, he has been a contributor to general literature, being among other works the author of "The Great Rebellion in the light of Christianity," and "The Life of James W. Grimes." For this latter work alone he has placed the people of the State under great obligations to him. H. W. LATHROP.

REVIEW.

BY J. L. PICKARD, LL.D., PRESIDENT STATE HISTORICAL
SOCIETY OF IOWA.



HIS year is one of review in all departments of human activity. This is specially true in the field of historic research. The State Historical Society of Iowa has a right to share in this work of review even though it has not made a very full record for itself

It is gratifying to those, who have labored unselfishly and without compensation for years, to record progress far beyond what could reasonably have been expected from the small means at their command.

From 1857 to 1880 the regular annual appropriation by the State was.....\$ 500 00.

Since 1880 it has been 1,000 00.

An average for thirty-seven years..... 689 19.

Two special appropriations have been made—one
in 1868 of..... 6,000 00.

And one in 1892 of..... 1,000 00.

These special appropriations have increased the annual average sum at the disposal of the Society to..... 878 38

Out of this insignificant sum the Society has been compelled

to pay rent, custodian's salary, fuel, and expressage upon exchanges, postage, binding of paper files, and the maintenance of a quarterly journal for nearly twenty-one years, viz.: "Annals of Iowa," from 1863 to 1875, and IOWA HISTORICAL RECORD, from 1885 to 1893. For the greater part of these twenty-one years the editorial management of the journals has been in the hands of Dr. F. Lloyd at a merely nominal salary part of the time. For the past nine years Mr. M. W. Davis has devoted his time to the correspondence and to exchanges.

The character of the journals may be learned from the fact that of 5225 pages of printed matter, 2597 pages are devoted to historical subjects upon all possible lines connected with the Territory and State. Eleven hundred and seventeen pages are given to biographical sketches of men and women who have helped to make Iowa, illustrated by sixty-three portraits. Five hundred and seventy-eight pages are given to memoranda of the civil war in which Iowa nobly participated. The remaining pages are given to special addresses (355 pages) and to brief personal notices, book reviews and proceedings of the Society.

The character of the historical work and the biographical work may be judged from the list of contributors in which appear the names of Hon. T. S. Parvin, Dr. W. Salter, N. H. Brainerd, C. W. Irish, Jno. P. Irish, Col. Albert M. Lea, Capt. N. Levering, Rev. Father Jno. F. Kempker, Bishop Perry, Hon. Charles Negus, Judge Wilson, Senator J. F. Wilson, Hon. Charles Aldrich, Judge G. G. Wright, Hon. H. Clay Dean, Col. S. P. Curtis, Judge McDill, Mrs. Austin Adams and Mrs. J. M. Love, Suel Foster, Dr. A. B. Robbins, Governor Kirkwood, Hawkins Taylor, Eliphalet Price and many others.

Among the biographical sketches accompanied by portraits, will be found those of Governors Lucas, Lowe, Chambers and Grimes, Berryman Jennings, Iowa's first public school teacher, Judges Love and Adams, Curators James Lee and

S.C. Trowbridge, John A. Parvin, Thomas Hughes and others prominent in Iowa Annals.

LECTURES.

Anniversary and other lectures have been given by Hon. T. S. Parvin, Hon. Charles Negus, Hon. F. H. Lee, Hon. H. C. Dean, Rev. Dr. G. F. Magoun, Rev. Dr. W. Salter, Hon. Hiram Price, Prof. S. Calvin, Chancellor McClain, Dr. C. M. Hobby, J. L. Pickard and B. F. Shambaugh, A. M., part of which have been published for distribution and for exchange.

EXCHANGES.

Exchanges are regularly maintained with the Historical Societies of the United States, and with several European Societies, numbering nearly seventy in all. Nearly complete files of over fifty prominent newspapers of the State are preserved and bound for convenient reference. Of these newspaper files there are nine hundred volumes, some of which it would be impossible to duplicate, and which are of incalculable value to students of the State history.

LIBRARY.

The Society's Library now numbers fifteen thousand volumes, obtained chiefly by gift from the State, the General Government and private individuals. A few rare volumes have been purchased out of a small fund of \$400 bequeathed the Society.

PAINTINGS, ENGRAVINGS AND PHOTOGRAPHS.

But few paintings have been secured. Photographs of every Governor of the State have been obtained, and of every United States Senator from Iowa and of many other prominent men. Photographs of members of the Constitutional Convention of 1857 taken from ambrotypes, which are also in possession of the Society, are put up in albums for convenient examination.

FLAGS.

Flags borne by Iowa regiments during the civil war numbering thirteen in all are kept in a glass case for inspection.

Twelve confederate flags captured by Iowa men are in the collection of war relics, one of which is the first flag raised in South Carolina after her secession.

Among war relics will be found one of John Brown's guns, the one used in Kansas, chains taken from the neck and legs of slaves, a confederate wooden mortar, pikes, swords, guns, etc.

MUSEUM.

The museum contains nearly 5,000 specimeans of miscellaneous character obtained by gift.

The rooms of the Society are opened only two days in each week because of lack of funds wherewith to pay a permanent custodian.

Students are admitted at other times for private study.

The State University under whose auspices the Society is placed by Legislative act is unable to aid the Society, even though students find here sources of information not available elsewhere. A small fund at the disposal of the Society for the employment of a custodian who should be in attendance every day would be of great value to students gathered here from all parts of the State.

DEATHS.

HERMAN MORSE, aged 85 years, died April 24, 1893, at Independence, Iowa, where he had resided forty years.

WM. M. STONE, formerly Colonel of the 22d Iowa Volunteers, lately Governor of Iowa, and more recently Commissioner of the General Land Office, died at Oklahoma City, O. T., July 18, 1893, in his 67th year. His name is illustriously associated with the uneven even number 22—the number of his regiment was 22, and the day of the month was 22, when in May, 1863, he led it in the charge at Vicksburg. A more extended notice of him, written by Hon. H. W. Lathrop, will appear in the next number of the RECORD.

NOTES.

EXCEPT Alaska, Vermont, West Virginia and Wisconsin, Iowa is the only Territory or State in the Union without a permanent military command, the only Federal military forces within our borders being the few United States army officers acting as professors of Military Science in the State University and some of our colleges. The Hawkeye State does not need watching.

EX-UNITED STATES SENATOR GEO. G. WRIGHT and the late Governor Ralph P. Lowe were on the State Supreme Bench together. The clerk of the court was T. F. Withrow, whose wife assisted him in copying the opinions of the court. The hand-writing of the two judges mentioned, measured by a Spencerian standard of penmanship, was execrable—difficult or impossible to decipher. It was hard to say who should wear the belt for the worse hand, and they themselves were constantly in jocular contention on this point. At an evening party, where all were present, the ever-recurring topic being on again, Judge Wright (who had learned that Mrs. Withrow had said she could copy his writing as easily as Lowe's) shrewdly proposed to leave the question for final arbitration to the lady copyist. To the discomfiture of Judge Lowe, who had readily assented, she gave her decision against him; and when, being pressed for a reason, she said—"Because Judge Wright always continues the sense," the laughter was boisterous and the future Governor's overthrow complete.

WE have received from Col. Cornelius Cadle, the Recording Secretary, the "Report of the Proceedings of the Society of the Army of the Tennessee at the twenty-fourth meeting, held at St. Louis, Mo., November 16th and 17th, 1892." This is a neatly printed and durably bound octavo volume of 155 pages, beautifully illustrated with portraits of Gen. Wm. T. Sherman and Col. L. M. Dayton, and an engraving of the Society's Badge. The work, besides being the record of a single meeting, with its motions, resolutions, addresses and

speeches, some of the latter containing flights of thrilling eloquence, is also, through an appendix, a history of the Society from its first organization at Raleigh, N. C., in 1865. It is a book worthy a place in any library and highly creditable to Col. Cadle, the compiler, who in this has been as accurate and faithful as in the war he was brave and intrepid.

THE 24th Iowa was one of the few Iowa regiments which not only marched on land but sailed the seas. Having fought under General Grant in the western armies, in the autumn of 1863 it was ordered to take transport at New Orleans and sail up the coast to Baltimore, and from there go by Washington City to join General Sheridan's troops in the Shenandoah Valley. Gen. Ed Wright, now of Des Moines, was then its colonel. On reaching Washington he reported to the proper commander, who sent an aide to direct Col. Wright to bivouac in the street where he found him. In the presence of the aide Wright drew up his men in line and without further ceremony ordered them to break ranks and stack arms. The young aide expressed his surprise that the colonel did not throw out a guard. "Why," asked the colonel, "is there any danger of attack?" "No," answered the aide, "but won't your regiment straggle away?" On the colonel's assurance that they would not, the aide allowed one of his worst passions to subside, warning the colonel he would be held responsible for the consequences of what seemed to him a breach of discipline, not knowing the "staying" qualities of Iowa soldiers. The 24th Iowa had "staid" before at Champion's Hill and Vicksburg and it afterwards "staid" at Fisher's Hill and Winchester. It is only by way of peroration that we add that it "staid" through the unrefreshing bivouac on the stony street of Washington, and when it saw the first beams of the rising sun glittering on the silvery dome of the capitol the next morning it was ready to march off to re-inforce Sheridan in the Shenandoah.



